



DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-870]

Certain Oil Country Tubular Goods from the Republic of Korea: Notice of Court Decision Not in Harmony with the Amended Final Results in the Antidumping Duty Administrative Review and Notice of Amended Final Results

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On June 17, 2020, the United States Court of International Trade (CIT) issued its final judgment in *NEXTEEL v. United States*, Court No. 17-00091, sustaining the Department of Commerce (Commerce)'s remand redetermination concerning the final results in the antidumping duty (AD) administrative review of certain oil country tubular goods (OCTG) from the Republic of Korea (Korea), covering the period of review (POR) July 18, 2014 through August 31, 2015. Commerce is notifying the public that the CIT's final judgment in this case is not in harmony with Commerce's final results in the administrative review of OCTG from Korea. Pursuant to the CIT's final judgment, Commerce is amending the weighted-average dumping margin calculated for SeAH Steel Corporation (SeAH), NEXTEEL Co., Ltd. (NEXTEEL), and non-examined companies.

DATES: Applicable (Insert date of publication in the *Federal Register*).

FOR FURTHER INFORMATION CONTACT: Chelsey Simonovich, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone (202) 482-1979.

SUPPLEMENTARY INFORMATION:

Background

On April 17 and July 10, 2017, Commerce published the *Final Results*.¹ NEXTEEL and SeAH challenged the *Final Results* before the CIT.² On January 2, 2019, the CIT remanded Commerce's determination, instructing Commerce to reverse its finding of a particular market situation (PMS) and provide further explanation or analysis of its treatment of SeAH's proprietary grade products and deduction of general and administrative (G&A) expenses.³ Commerce issued a redetermination on remand, under protest, complying with the CIT's instructions to reverse its finding of a PMS, and providing further explanation of its treatment of SeAH's proprietary grade products and deduction of G&A expenses.⁴ On September 4, 2019, the CIT remanded Commerce's deduction of G&A expenses for clarification or reconsideration.⁵ Commerce issued a second redetermination on remand, providing further clarification on its deduction of G&A expenses as U.S. selling expenses.⁶ On June 17, 2020, the CIT sustained the *Remand Results*.⁷

Timken Notice

¹ See *Certain Oil Country Tubular Goods from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2014-2015*, 82 FR 18105 (April 17, 2017), and accompanying Issues and Decision Memorandum (IDM), as amended by *Certain Oil Country Goods from the Republic of Korea: Amended Final Results of Antidumping Duty Administrative Review; 2014-2015*, 82 FR 31750 (July 10, 2017) (collectively, *Final Results*).

² The following companies that were not subject to individual examination in the administrative review joined the challenge by NEXTEEL and SeAH of the *Final Results*: AJU Besteel Co., Ltd.; Dongbu Incheon Steel; Dongbu Steel Co., Ltd.; Husteel Co., Ltd.; Husteel Co., Ltd.; Hyundai Steel Company; and ILJIN Steel Corporation.

³ See *NEXTEEL Co. v. United States*, Court No. 17-00091, Slip Op. 19-1 (CIT January 2, 2019).

⁴ See *Final Results of Redetermination Pursuant to Court Remand Oil Country Tubular Goods from the Republic of Korea, Nexteel Co. v. United States*, Consolidated Court No. 17-00091, Slip Op. 19-01 (CIT January 2, 2019), dated April 2, 2019.

⁵ See *NEXTEEL Co. v. United States*, Court No. 17-00091, Slip Op. 19-116 (CIT September 4, 2019).

⁶ See *Final Results of Redetermination Pursuant to Court Remand Oil Country Tubular Goods from the Republic of Korea Nexteel Co. v. United States*, Consolidated Court No. 17-00091, Slip Op. 19-116 (CIT September 4, 2019), dated November 20, 2019 (*Remand Results*).

⁷ See *Nexteel Co. v. United States*, Consolidated Court No. 17-00091, Slip Op. 20-85 (CIT June 17, 2020), at 14.

In its decision in *Timken*,⁸ as clarified by *Diamond Sawblades*,⁹ the Court of Appeals for the Federal Circuit (CAFC) held that, pursuant to section 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of a court decision that is not “in harmony” with a Commerce determination and must suspend liquidation of entries pending a “conclusive” court decision. The CIT’s June 17, 2020 judgment in this case constitutes a final decision of the court that is not in harmony with Commerce’s *Final Results*. This notice is published in fulfillment of the publication requirements of *Timken*.

Amended Final Results

Because there is now a final court decision, Commerce is amending its *Final Results*. Commerce finds that the revised the weighted-average dumping margins are 2.97 percent for SeAH, 3.63 percent for NEXTEEL, and 3.30 percent for the non-examined companies.

Cash Deposit Requirements

The cash deposit rates calculated in the 2014-2015 administrative review for SeAH, NEXTEEL, and the non-examined companies subject to this litigation, with the exception of Dongbu Steel Co., Ltd., have been superseded by cash deposit rates calculated in subsequent administrative reviews of the antidumping duty order on OCTG from Korea.¹⁰ Thus, we are not implementing the amended cash deposit rates for these companies. For Dongbu Steel Co., Ltd., effective the date of publication of this notice, we will instruct Customs and Border Protection (CBP) to collect cash deposits of estimated antidumping duties at the rate of 3.30 percent.

⁸ See *Timken Co. v. United States*, 893 F.2d 337, 341 (Fed. Cir. 1990) (*Timken*).

⁹ See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F. 3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

¹⁰ See *Certain Oil Country Tubular Goods from the Republic of Korea: Final Results of Antidumping Duty Administrative Review*; 2017–2018, 85 FR 41949 (July 13, 2020).

Liquidation of Suspended Entries

If the CIT's final judgment is not appealed, or if it is appealed and upheld, Commerce will instruct CBP to terminate the suspension of liquidation, and to liquidate and to assess duties at the margins shown above for entries during the POR that were produced and exported by SeAH, NEXTEEL, and the non-examined companies. Consistent with Commerce's assessment practice, for entries of subject merchandise during the POR produced by SeAH and NEXTEEL for which they did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all others rate if there is no rate for the intermediate company(ies) involved in the transaction.¹¹

Finally, during the pendency of litigation, including any appeal, Commerce remains enjoined by Court order from liquidating entries that: (1) were the subject of the administrative determination published in the *Final Results*;¹² (2) were produced and/or exported by any of the following: SeAH, NEXTEEL, and the non-examined companies; (3) were entered, or were withdrawn from warehouse, for consumption on or after July 18, 2014 through August 31, 2015; and (4) remain unliquidated as of 5:00 p.m. Eastern Time on June 16, 2017.

¹¹ For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

¹² See *Final Results*.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c)(1) and (e), 705(c)(1)(B), and 777(i)(1) of the Act.

Dated: September 2, 2020.

Jeffrey I. Kessler,
Assistant Secretary for Enforcement and Compliance.

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